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S. 3486, TO AUTHORIZE GOVERNMENT AGENCIES TO PROVIDE QUARTERS, HOUSEHOLD FURNITURE AND EQUIPMENT, UTILITIES, SUBSISTENCE, AND LAUNDRY SERVICE TO CIVILIAN OFFICERS AND EMPLOYEES OF THE UNITED STATES, AND FOR OTHER PURPOSES

JUNE 14, 1960.—Ordered to be printed

Mr. McCLELLAN, from the Committee on Government Operations, submitted the following

REPORT

[To accompany S. 3486]

The Committee on Government Operations, to whom was referred the bill (S. 3486) to authorize Government agencies to provide quarters, household furniture and equipment, utilities, subsistence, and laundry service to civilian officers and employees of the United States, and for other purposes, report favorably thereon, without amendment, and recommend that the bill do pass.

PURPOSE

S. 3486, introduced by Senator McClellan at the request of the Director of the Bureau of the Budget, is designed to clarify existing statutory authority for the providing of quarters, household furniture, etc., to civilian employees of the Government who occupy Government quarters.

The bill would continue the basic authority now granted Government agencies by the act of March 5, 1928 (5 U.S.C. 75a). In addition, it would, first, authorize the President to issue regulations prescribing rates to be charged employees for the housing, facilities, and services provided; and, second, authorize housing for employees of Government contractors engaged in defense, atomic energy, and other projects who are not presently covered by the act of March 5, 1928.

The bill does not authorize any new construction or acquisition of Government quarters, nor does it alter the basic statutory policy that employees should pay a reasonable rate for housing provided them, nor affect special statutes which authorize housing rates or without charge.

BACKGROUND

The following letter from Budget Director Maurice H. Stans to the President of the Senate, dated March 11, 1960, transmitting this proposed legislation to the Senate, provides full information on the objectives of the bill:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., March 11, 1960.

Hon. RICHARD M. NIXON,
President of the Senate,
Washington, D.C.

MY DEAR MR. PRESIDENT: I have the honor to transmit herewith a proposed bill to authorize Government agencies to provide quarters, household furniture and equipment, utilities, subsistence, and laundry service to civilian officers and employees of the United States, and for other purposes.

The purpose of the proposed bill is to provide for the charging of uniform and equitable rates for occupancy of Government-owned quarters on a rental basis. The bill would consolidate and restate related provisions of law and regulations which authorize the furnishing of quarters to Government employees, and it would vest authority in the President to prescribe regulations which would insure fair and consistent treatment for all persons--civilian employees, military personnel, and non-Government personnel--who occupy rental housing under like circumstances.

The bill would not authorize any new construction or other acquisition of quarters for any personnel. It would continue the authority, now covered by the act of March 5, 1928 (5 U.S.C. 75a), to provide quarters, household furniture and equipment, utilities, subsistence, and laundry service for civilian employees. It would also provide the basis for fixing rental rates and related charges for rental housing occupied by members of the uniformed services, but it would not change the existing authority to provide quarters and related items to such members. The bill would also apply in those instances (principally involving certain facilities of the Department of Defense and the Atomic Energy Commission) where non-Government personnel--usually contractors' employees--occupy Government quarters.

Section 3 of the act of March 5, 1928 (5 U.S.C. 75a), is the only existing law of general application to civilian employees with respect to providing quarters and fixing rents. It reads as follows:

"The head of an executive department or independent establishment, where, in his judgment, conditions of employment require it, may continue to furnish civilians employed in the field service with quarters, heat, light, household equipment, subsistence, and laundry service; and appropriations of the character used before March 5, 1928, for such purposes are made available therefor: *Provided*, That the reasonable value of such allowances shall be determined and considered as part of the compensation in fixing the salary rate of such civilians."

This law established the equitable principle that the Government should charge employees the reasonable value of quarters and related items furnished to them. However, it does not by its terms apply to

those Government quarters which are occupied by members of the uniformed services on a rental basis, nor to those Government quarters which may be occupied by persons who are not employees of the Government. Moreover, it is not specific enough for agencies to independently administer it with reasonable uniformity since it sets no detailed criteria for establishing rents and it does not expressly provide for Governmentwide regulations thereunder. It gives no basis for determining reasonable value; that is, whether based on the commercial rental rates of comparable facilities, on the Government's investment in the quarters, or on other factors.

Considerable variation in the interpretation of this 1928 law, and an evident failure by many agencies to charge their employees with the reasonable value of the quarters, came to the attention of both the Bureau of the Budget and the General Accounting Office about 10 years ago. As a result, the Bureau of the Budget in 1951 issued its Circular No. A-45, which established certain procedures intended to make the various agency practices uniform and more equitable to both the Government and the employees concerned. This circular prescribed, as the basic criterion for determining reasonable value for rental purposes, that rents should be set at levels similar to those prevailing for comparable private housing located in the same area, after taking into account certain considerations which affect the value of the housing to the recipient, such as isolated location, and instances where an employee might, for the convenience of the Government, have to accept quarters of a size or quality beyond that which he would choose of his own accord. The proposed bill would provide statutory authority for regulations of the type now prescribed by the Bureau of the Budget circular. The procedure contemplated by this bill is similar to that provided in other statutes dealing with employee allowances and benefits, such as the Travel Expense Act of 1949, as amended (5 U.S.C. 835-842), and the Government Employees Training Act (5 U.S.C. 2301 et seq.).

Since 1928, several other laws have been enacted which authorize rental of quarters to Government personnel. The act of July 2, 1945, as amended (37 U.S.C. 111a), authorized the occupancy of certain quarters on a rental basis by members of the uniformed services who are authorized to continue to receive their basic allowances for quarters. Section 404(f) and 405 of the act of August 11, 1955, as amended (42 U.S.C. 1594a(f), 1594b), authorized the occupancy by civilian personnel, on a rental basis, of Capehart housing and Wherry housing acquired by the Government, and occupancy of some Wherry housing by military personnel on that basis. These provisions of law did not specify how the rental rates were to be determined, and the draft bill would provide a basis for such determinations.

Section 407(a) of the act of August 20, 1957 (Public Law 85-241), authorizes the rental of inadequate public quarters to members of the uniformed services, and provides that such personnel will be paid an adjusted quarters allowance amounting to the net difference between (1) the fair rental value of the inadequate quarters and (2) their basic allowance for quarters. The section provides that it shall be administered under regulations approved by the President. These regulations have been issued by the heads of the departments concerned, after approval by the Director of the Bureau of the Budget, under a delegation of authority from the President in Executive

Order No. 10766, dated May 1, 1958. In addition to setting standards of adequacy, these regulations prescribe methods of setting "fair rental value" on the same basis as required by Budget Circular No. A-45. The bill would permit these housing rentals to be fixed under the proposed governmentwide regulations which the President would be authorized to prescribe.

The bill would also permit the President to issue regulations to provide a similar basis for the determination of charges for household furniture and equipment, utilities, subsistence, and laundry service, where such items are authorized to be supplied by the Government.

The draft bill also contains a prohibition against employees being required to occupy Government rental quarters unless a determination has been made that necessary service cannot be rendered or property of the United States cannot be adequately protected otherwise. Such a prohibition has appeared in annual appropriation act provisions in recent years.

We recommend this draft bill be given the favorable consideration of the Congress.

Sincerely yours,

MAURICE H. STANS, *Director.*

AGENCY COMMENTS

As S. 3486 was cleared with all affected Government agencies by the Bureau of the Budget prior to its transmission to the Congress, the committee did not request formal reports from the various agencies concerned.

At the request of the chairman, Mr. Phillip S. Hughes, Assistant Director for Legislative Reference of the Bureau of the Budget, advised the committee by letter of May 20, 1960, that all Government agencies approve of the general objectives of the bill.

A few agencies suggested certain technical modifications in the drafting of the bill, which, after thorough evaluation by the Bureau of the Budget, were accepted, rejected after a determination they could be implemented by administrative action under authority of the bill, or were otherwise resolved following consultation with the affected agencies, Mr. Hughes reported.

Mr. Hughes' letter to the chairman, together with a detailed summary of the agencies' comments, follows:

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D.C., May 20, 1960.

HON. JOHN L. McCLELLAN,
Chairman, Committee on Government Operations,
U.S. Senate, Washington 25, D.C.

MY DEAR MR. CHAIRMAN: Thank you for your letter of May 9 informing us of the introduction of the proposed legislation on rental of living quarters and charges for related services to Government employees (S. 3486).

Prior to our transmittal of this proposed legislation the agencies who would be affected were consulted. None of these objected to the legislation as such. Enclosed is a statement which identifies the principal agencies affected, summarizes the comments and recom-

mendations received on the previous draft of the bill, and states the disposition of such comments and recommendations.

We hope that this legislation will receive the favorable consideration of the Congress.

Sincerely yours,

PHILLIP S. HUGHES,
Assistant Director for Legislative Reference.

AGENCY REVIEW OF DRAFT RENTAL LEGISLATION

PRINCIPAL AGENCIES AFFECTED

Atomic Energy Commission	Panama Canal Company
Veterans' Administration	Department of Health, Education, and Welfare
Department of Agriculture	Department of the Interior
Department of Defense	

OTHER AGENCIES AFFECTED

Office of Civil and Defense Mobilization	Tennessee Valley Authority
Central Intelligence Agency	Department of Commerce
Federal Aviation Agency	Department of Justice
General Services Administration	Post Office Department
National Science Foundation	Department of State
	Treasury Department

AGENCY COMMENTS

No objections were raised by the following agencies:

Atomic Energy Commission	Department of Health, Education, and Welfare
Office of Civil and Defense Mobilization	Department of Justice
Central Intelligence Agency	Post Office Department
Federal Aviation Agency	Department of State
General Services Administration	Treasury Department
Veterans' Administration	

Specific recommendations were made as shown below:

National Science Foundation.—Was in accord with the objective but wanted authority included to use cash collections to maintain the property or to finance services furnished.

It was decided not to include such a provision, since it would be contrary to the basic policy against the earmarking of receipts in the absence of a compelling reason to do so.

Tennessee Valley Authority.—Had no objection to the legislation, but thought that the provision for governmentwide regulations was unnecessary and undesirable.

Bureau of the Budget is strongly of the opinion that governmentwide regulations are necessary to insure uniform application of the legislative policies.

Department of Agriculture.—Had no objection to the legislation as such but raised a question as to the application of section 3 to federally owned residences being assigned to State collaborators as a part of the Federal contribution to a joint project.

Bureau of the Budget believes that this type of situation can best be covered in the regulations.

The Department also suggested a modification of the wording in section 4, which was adopted.

Department of Commerce. Had no objection, except the question was raised as to the differences in amount which would be collected or withheld from civilian employees' salaries and the quarters allowance provided military personnel which would not be paid where "public quarters" are provided.

The payment for quarters furnished to civilians and the quarters allowance provided to military personnel are determined on two entirely different bases; the first being a charge for services provided in kind and the other as an element of total compensation. The first is based on the reasonable value of the services provided to the individual, whereas the latter is established by statute without regard to the particular quarters occupied at any particular time. The proposed legislation would not create any inequities because the features of the two systems are not comparable.

Department of Defense. Recommended extending authority in section 1 to include people who have no connection with the Government where excess housing is available.

Bureau of the Budget decided not to recommend extension of authority after checking several other agencies who objected to this extension.

Defense also recommended change in section 1 to remove mention of the U.S. territories and possessions, etc., so that foreign countries would be covered.

Bureau of the Budget decided against recommending this because of possible conflict with 5 U.S.C. 118a, under which the State Department and others provide housing accommodations in foreign countries to their employees without charge.

It was recommended that the words "paid by or" be inserted in section 2 to make payment provisions in lieu of salary deductions possible.

This recommendation was accepted.

The Department expressed an opinion that section 3 did not apply when Government-owned housing was block leased to operators who, in turn, sublease it to occupants.

Bureau of the Budget is in agreement with this interpretation.

They also recommended insertion of the word "rental" in section 4 to avoid any possible interference with the right of the military services to order military personnel to occupy public quarters.

The change was made.

It was also recommended that section 5 be changed to make clear that authority granted in section 1 would not conflict with section 627 of the Department of Defense Appropriation Act for 1960 which authorizes the Department to provide furniture and furnishings free to military or civilian personnel in oversea areas in lieu of shipping their own furniture.

This change was made also.

The above change also corrected another concern which the Department felt over possible conflict with section 609 of the Department of Defense Appropriation Act for 1960, requiring that the rates charged for meals served by messes must be sufficient to provide reimbursement of operating expenses and food costs.

The Department had no objection to the passage of the bill with these modifications.

Panama Canal Company.—Assumed that the regulations would permit application of a modified cost formula or some other reasonable basis in the absence of comparable commercially rented housing.

Bureau of the Budget agreed with this assumption

The Company was also concerned that application of the policy to Latin American quarters should not result in rates as abnormally high as in the Republic of Panama where shortages of housing and import duties on construction materials create an extreme situation.

Again it was decided that this could best be covered in the regulations.

The Company assumed, correctly, that this legislation would not require them to supply household furniture, subsistence, or laundry, but would be permissive only.

The Company also assumed that the reasonable value test could result in a distinction between employee and a nonemployee where the value to the occupant might be greater.

It was thought that if further investigation revealed that this point needed to be covered, it could be taken care of in the regulations.

Department of the Interior.—Had no objection, provided that the Trust Territory of the Pacific Islands was included.

This is included.

CONCLUSION

In summary, S. 3486 is primarily perfecting legislation which re-states existing authority for providing housing for civilian employees, authorizes the President to issue regulations for more equitable application of the statutes to the various affected agencies, and includes civilian employees of Government contractors who are not presently covered by the statutes.

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

ACT OF MARCH 5, 1928

(45 Stat. 193; 5 U.S.C. 75a)

[The head of an executive department of independent establishment, where, in his judgment, conditions of employment require it, may continue to furnish civilians employed in the field service with quarters, heat, light, household equipment, subsistence, and laundry service; and appropriations of the character used before March 5, 1928, for such purposes are made available therefor: *Provided*, That the reasonable value of such allowances shall be determined and considered as part of the compensation in fixing the salary rate of such civilians.]